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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-300

13
14 **RODNEY D. FEHR**
15 **401 Bison Ridge**
16 **Nappanee, IN 46550**
17 **Registered Nurse License No. 598275**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about October 15, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs, filed Accusation No. 2013-300 against Rodney D. Fehr ("Respondent") before
23 the Board of Registered Nursing. Accusation No. 2013-300 is attached as Exhibit 1 to the
24 Default Decision Investigatory Evidence Packet and is hereby incorporated by reference.

25 2. On or about April 17, 2002, the Board of Registered Nursing ("Board") issued
26 Registered Nurse License No. 598275 to Respondent. The Registered Nurse License expired on
27 October 31, 2011, and has not been renewed. Pursuant to Business and Professions Code
28

1 ("Code") section 2764, the expiration of Respondent's license does not deprive the Board of
2 jurisdiction to proceed with this disciplinary proceeding or to render a decision imposing
3 discipline on the license.

4 3. On or about October 15, 2012, Respondent was served by Certified and First Class
5 Mail copies of the Accusation No. 2013-300, Statement to Respondent, Notice of Defense,
6 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
7 and 11507.7) at Respondent's address of record which, pursuant to California Code of
8 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
9 Respondent's address of record with the Board was and is:

10 **401 Bison Ridge**
11 **Nappanee, IN 46550.**

12 4. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

14 5. On or about November 7, 2012, the aforementioned documents served via Certified
15 Mail and First Class Mail were returned by the U.S. Postal Service marked as, "return to sender;
16 unable to forward."

17 6. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts
20 of the accusation not expressly admitted. Failure to file a notice of defense shall
21 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
22 may nevertheless grant a hearing.

23 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
25 2013-300.

26 8. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

1 9. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 2013-300, finds
6 that the charges and allegations in Accusation No. 2013-300, are separately and severally, found
7 to be true and correct by clear and convincing evidence.

8 10. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$867.50 as of November 8, 2012.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Rodney D. Fehr has subjected
13 his Registered Nurse License No. 598275 to discipline.

14 2. The agency has jurisdiction to adjudicate this case by default.

15 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
16 Nurse License based upon the following violations alleged in the Accusation which are supported
17 by the evidence contained in the Default Decision Evidence Packet in this case.:

18 a. **Disciplinary Action by the Indiana State Board of Nursing.** Respondent is
19 subject to disciplinary action under Code section 2761, subdivision (a)(4), on the grounds of
20 unprofessional conduct in that Respondent's registered nurse license was disciplined by the
21 Indiana State Board of Nursing ("Indiana Board"). On or about June 1, 2009, pursuant to the
22 Findings of Fact, Ultimate Findings of Fact, Conclusion of Law, and Order issued by the Indiana
23 Board in the disciplinary action entitled, *In the Matter of: Rodney Fehr, R.N. License No.*
24 *28124539A*, the Indiana Board imposed a fine on Respondent in the amount of \$250.00. The basis
25 for the Order is that Respondent engaged in material deception in order to obtain a license to
26 practice as a registered nurse in that he failed to disclose criminal charges of domestic violence,
27 disorderly conduct, threatening conduct, and theft on his 2005 license renewal. On that same
28

1 license renewal application, he also failed to disclose pending charges for domestic violence and
2 failure to appear.

3 **b. False Statement on License Application.** Respondent is subject to disciplinary
4 action under section 2761, subdivision (e) for making a false statement in connection with the
5 issuance of his registered nurse license. The circumstances are as follows:

6 i. On or about October 30, 2009, Respondent submitted his renewal
7 application to the Board for his Registered Nurse license.

8 ii. The renewal application asked Respondent to answer the following
9 question, "Since you last renewed your license, have you had any license disciplined by a
10 government agency or other disciplinary body; or, have you been convicted of any crime in any
11 state, the USA and its territories, military court, or a foreign county?"

12 iii. To this question, Respondent answered, "No."

13 iv. Since Respondent last renewed his license, he had been disciplined by the
14 Indiana State Board of Nursing. The discipline is more thoroughly described in paragraph 3,
15 subparagraph (a), inclusive, above, and herein incorporated by reference.

16 **c. Unprofessional Conduct.** Respondent is subject to disciplinary action under
17 Code section 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct.
18 The conduct is more particularly described in paragraph 3, subparagraphs (a) and (b)(i-iv),
19 inclusive, above, and herein incorporated by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 598275, heretofore issued to Respondent Rodney D. Fehr, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 8, 2013.

It is so ORDERED February 8, 2013



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51190974.DOC
DOJ Matter ID:LA2012507796

Exhibit A

Accusation Case No. 2013-300

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
4 State Bar No. 246134
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2442
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-300*

13 **RODNEY D. FEHR**
14 **401 Bison Ridge**
15 **Nappanee, IN 46550**

A C C U S A T I O N

16 **Registered Nurse License No. 598275**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 17, 2002, the Board of Registered Nursing issued Registered Nurse
24 License Number 598275 to Rodney D. Fehr ("Respondent"). The Registered Nurse License
25 expired on October 31, 2011, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
28 Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license...”

8. Section 2811, subdivision (b) of the Code provides:

1 "Each such license not renewed in accordance with this
2 section shall expire but may within a period of eight years thereafter
3 be reinstated upon payment of the biennial renewal fee and penalty
4 fee required by this chapter and upon submission of such proof of
5 the applicant's qualifications as may be required by the board,
6 except that during such eight-year period no examination shall be
7 required as a condition for the reinstatement of any such expired
8 license which has lapsed solely by reason of nonpayment of the
9 renewal fee. After the expiration of such eight-year period the board
10 may require as a condition of reinstatement that the applicant pass
11 such examination as it deems necessary to determine his present
12 fitness to resume the practice of professional nursing."

13 **REGULATORY PROVISIONS**

14 9. California Code of Regulations, title 16, section, 1419.3 provides:

15 "In the event a licensee does not renew his/her license as provided
16 in Section 2811 of the code, the license expires. A licensee
17 renewing pursuant to this section shall furnish a full set of
18 fingerprints as required by and set out in section 1419(b) as a
19 condition of renewal.

20 (a) A licensee may renew a license that has not been expired for
21 more than eight years by paying the renewal and penalty fees as
22 specified in Section 1417 and providing evidence of 30 hours of
23 continuing education taken within the prior two-year period.

24 (b) A licensee may renew a license that has been expired for more
25 than eight years by paying the renewal and penalty fees specified in
26 Section 1417 and providing evidence that he or she holds a current
27 valid active and clear registered nurse license in another state, a
28 United States territory, or Canada, or by passing the Board's current
examination for licensure."

29 **COST RECOVERY**

30 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
33 enforcement of the case.

34 **FIRST CAUSE FOR DISCIPLINE**

35 **(Disciplinary Action by the Indiana State Board of Nursing)**

36 11. Respondent is subject to disciplinary action under Code section 2761, subdivision

1 (a)(4), on the grounds of unprofessional conduct in that Respondent's registered nurse license was
2 disciplined by the Indiana State Board of Nursing ("Indiana Board").

3 12. On or about June 1, 2009, pursuant to the Findings of Fact, Ultimate Findings of
4 Fact, Conclusion of Law, and Order issued by the Indiana Board in the disciplinary action
5 entitled, *In the Matter of: Rodney Fehr, R.N. License No. 28124539A*, the Indiana Board imposed
6 a fine on Respondent in the amount of \$250.00. The basis for the Order is as follows:

7 a. Respondent engaged in material deception in order to obtain a license to
8 practice as a registered nurse in that he failed to disclose criminal charges of domestic violence,
9 disorderly conduct, threatening conduct, and theft on his 2005 license renewal. On that same
10 license renewal application, he also failed to disclose pending charges for domestic violence and
11 failure to appear.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(False Statement on License Application)**

14 13. Respondent is subject to disciplinary action under section 2761, subdivision (e) for
15 making a false statement in connection with the issuance of his registered nurse license. The
16 circumstances are as follows:

17 a. On or about October 30, 2009, Respondent submitted his renewal application to
18 the Board for his Registered Nurse license.

19 b. The renewal application asked Respondent to answer the following question,
20 "Since you last renewed your license, have you had any license disciplined by a government
21 agency or other disciplinary body; or, have you been convicted of any crime in any state, the USA
22 and its territories, military court, or a foreign county?"

23 c. To this question, Respondent answered, "No."

24 d. Since Respondent last renewed his license, he had been disciplined by the
25 Indiana State Board of Nursing. The discipline is more thoroughly described in paragraph 12,
26 subparagraph (a), inclusive, above, and herein incorporated by reference.

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